



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Paul Goldstein, Case Manager
Joel Lawson, Associate Director Development Review

DATE: February 4, 2014

SUBJECT: BZA Application #18709 – Request for area variances pursuant to §§ 403, 406, and 2001.3 at 125 New York Avenue NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends approval of this application, subject to a condition, for a minor building expansion of a child development center and two unit residential building. OP evaluated the following relief:

- § 403, area variance relief to exceed maximum lot occupancy;
- § 406, area variance relief for a non-conforming open court;
- § 2001.3, area variance relief for the expansion of a non-conforming structure.

OP notes that the Applicant, in a self-certified application, originally requested special exception relief pursuant to § 223 (for non-compliance with §§ 403, 405 (side yard), and 2001.3) for the expansion of the residential component of the building and area variance relief from §§ 403, 405, and 2001.3 for the child development center component. Because of the unusual combination of relief requests, OP sought guidance from the Zoning Administrator to determine the appropriate approach. The Zoning Administrator informally indicated to OP that the proper relief should be strictly area variances applicable to the entire building expansion and that special exception relief is not requisite. OP also notes that the Applicant misidentified an open court as a side yard in the original application. The Applicant has amended the application's relief requests accordingly, and the application now requests comparatively less relief than was publically advertised. No changes have been made to the original project design. OP further notes that the Property also is presently non-conforming to lot area and lot width.

OP's approval is subject to the following condition:

- The space allocated to the child development center use shall not be converted to additional residential units.

II. AREA AND SITE DESCRIPTION

Address:	125 New York Avenue NW
Legal Description:	Square 555, Lot 802 (hereinafter, the "Property")
Ward/ANC:	5/5E
Lot Characteristics:	The lot is irregular in shape and measures 1,448 square feet in lot area. It has frontage on New York Avenue NW to the south and has no alley access.



Zoning:	R-4: row dwellings
Existing Development:	The Property is developed with a three-story row building. The building appears, with the existing massing, on a 1916 Sanborn map. ¹
Historic District:	Mount Vernon Square Historic District
Adjacent Properties:	<p>The Property borders the vacant Sursum Corda Community Library to the west and a playground to the north. To the east is a three-story residential dwelling. To the south is New York Avenue.</p> <p>More broadly, the subject square is largely comprised of the public New York Avenue Recreation Center and Playground facilities. The Property is on the western end of a span of six residential buildings fronting New York Avenue, which collectively are the only non-park related developments in the square.</p>
Surrounding Neighborhood Character:	The surrounding neighborhood has a mix of uses, including Dunbar High School to the north, a federal reservation and institutional uses to the south across New York Avenue, and a variety of housing types and low density commercial uses to the east and west. The Property is approximately four blocks east of the vehicular entry to I-395.

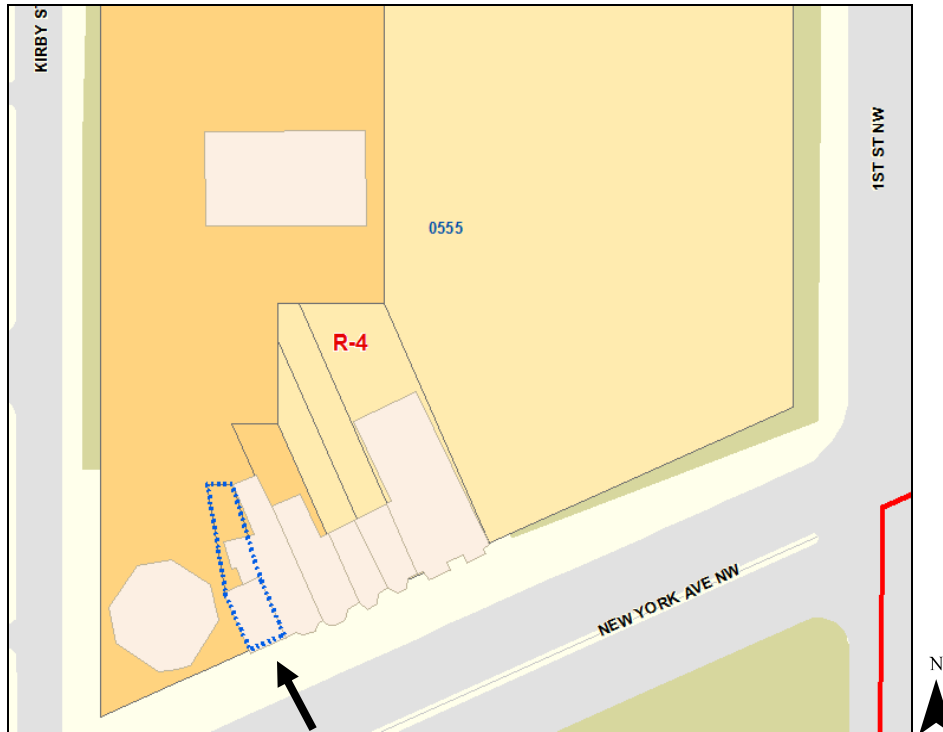
III. PROJECT DESCRIPTION IN BRIEF

Applicant:	DAZ LLC
Proposal:	<p>The Applicant proposes to construct a modest three-story addition, intended as new kitchen space on each floor, to improve the functionality and modernity of the building.</p> <p>As background, in August 2013, the Applicant applied and received a building permit to renovate the existing building for a child development center use in the cellar and first floor level and two total residential units on the second and third floors. The permit indicates that the child development center would cater to 8 children and 2 staff, which is a permitted use in the R-4 zone.² OP understands that the building is currently vacant. The permit also states that no parking is required because of a legacy parking credit on the site.</p> <p>The Applicant now proposes an approximately 300 square foot expansion to the building divided equally across 3-stories. The addition would extend into existing open-court space facing the park to the west (where an unnecessary stairway currently extends and encroaches into the neighboring property). The added space would provide modern kitchen facilities to a century old building. As illustrated in the Applicant's pre-hearing submission, the expansion would increase the lot occupancy by about 4% to 69% total.</p>
Relief Sought:	<p>§ 403, area variance from maximum lot occupancy</p> <p>§ 406, area variance from minimum open court</p> <p>§ 2001.3, area variance relief for the expansion of a non-conforming structure</p>

IV. IMAGES AND MAPS

¹ A staff member of the Historic Preservation Office preliminarily speculated that the building may date from the 19th century.

² See § 330.5(c) "Child/Elderly development center or adult day treatment facility; provided, that the center shall be limited to no more than sixteen (16) individuals." At some time in the past, it appears that the building functioned as a day care facility based on a certificate of occupancy included with the application.



Aerial view of the site (highlighted)



View of the subject block looking north across New York Avenue
(Property identified, Bing Maps)



Subject Property (Google maps)



Location of the proposed addition (looking east at the subject building)

V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested.

<i>R-4 Zoning</i>	<i>Restriction</i>	<i>Existing</i>	<i>Proposed</i>	<i>Relief</i>
Lot area (sq. ft.)	1,800 min.	1,448	1,448	Non-conforming; no change proposed
Lot width (ft.)	18' min.	17.4'	17.4'	Non-conforming; no change proposed
Lot occupancy (building area/lot)	60% max.	~65%	~69%	Relief needed: exceeds the maximum lot occupancy by roughly 130 square feet.
Court, open	4 in. per ft. of height of court, but not less than 10 ft., min.	~6'-12'	~6'	Relief needed; deficient width
Height (ft.)	40' max.	38'	38'	Conforms

In R-4 zones, flats and child development centers (subject to a limit on the number of individuals) are permitted by right. The Applicant's proposal to expand the building, and the associated residential and child development center uses, would increase the lot occupancy from 65% to 69% lot occupancy, which exceeds the maximum permitted lot occupancy for the zone. In a typical expansion of a flat, 70% lot occupancy would be permitted by special exception. However, due to the combination of child development center use and residential use, the Zoning Administrator directed that the entire expansion should be considered under variance analysis. As such, the Applicant now requests area variance relief from the maximum lot occupancy (proposed 69%), minimum open court (proposed ~6' width), and expansion of a non-conforming structure. While no off-street parking is provided since the site has no curb cut or alley access, no parking appears to be required due to a legacy parking credit.³

Area Variance Relief (§§ 403, 406, & 2001.3)

- Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the

³ See DCRA building permit for the renovation of the building, which indicates that "CDC has no existing auto parking and receives 1 automobile parking credit toward future general use; Approved for use as flat on the 2nd and 3rd floor. No parking required." It appears that a surface parking space may have been located in the front of the building at some time in the past.

extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

The Property exhibits specific uniqueness based on several factors. The Property is irregular in shape, measuring 19.2' in width along New York Avenue for a depth of approximately 30', at which point the lot veers in a northeasterly angle and narrows to 13.6' by the rear lot line. It is substandard in lot width (with an approximate average of 17.4' width) and lot area (1,448 square feet). It is the second smallest lot in a square that is primarily occupied by park land. The Property borders park space to the west and north. The building was constructed substantially prior to the 1958 zoning regulations and a 1916 Sanborn map appears to show the building in its present massing.⁴ The unusual shape of the lot likely contributed to the atypical building shape, with the building narrowing to a pinch point (about a 5' clear width) before it slightly expands at an angle toward the rear lot line. The Applicant indicates that the existing rear wing is crowded with multiple functions (kitchen and living room) and that the circulation within the floor plan is overly constricted. There also is an irregularly shaped open court, which ranges from about 6' to 12' in width, on the building's west side.

The Property's uniqueness creates a practical difficulty which is unnecessarily burdensome to the owner's ability to moderately expand and modernize an aged building. Without demolition, the building could not expand without seeking lot occupancy and court relief. The building footprint presently occupies about 57% of the lot, but the irregular non-conforming court raises the lot occupancy to about 65%. The Applicant proposes to extend the building by about 100 square feet into a portion of the non-conforming court, adding only approximately 4% more lot occupancy. The addition would introduce a small new kitchen area on each floor and allow existing kitchen space to be repurposed for more living space. The unusual building bottleneck would be ameliorated by essentially squaring off a portion of the building. The addition also would fill-in the underused 12' wide nook in the open court, creating a more typical building "dog leg" shape with a smaller remaining open court.

- **Can the relief be granted without substantial detriment to the public good?**

Relief can be granted without substantial detriment to the public good. The limited addition would be located on the west side of the building facing a park. The use of the property, planned for a child development center and two residential units, would be consistent with applicable zoning. The Applicant also has submitted a letter in support from the neighbor to the east.

- **Can the relief be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Granting relief also should not impair the intent, purpose and integrity of the Zoning Regulations and Map. The moderate expansion would facilitate the modernization and matter of right use of the building.

VI. ANC/COMMUNITY COMMENTS

The Applicant has indicated that although there have been communications with an ANC 5E Single Member District representative, attempts to present the project to the full ANC have not been successful. A letter of support from the neighbor to the east (123 New York Avenue) has been submitted to the record. To date, OP is not aware of any other submissions to the record.

⁴ Although it appears that the façade likely has been altered over time.

VII. AGENCY COMMENTS

The Historic Preservation Office has informally indicated to OP that they have no objection to the project in concept and that the proposal likely would be reviewed at staff level for permit approval.

JLS/pg
Paul Goldstein, case manager